

DECISION



19935 *Pogony*
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-204677

DATE: November 3, 1981

MATTER OF: Ingersoll-Rand

DIGEST:

Allegation that successful offeror would be unable to satisfactorily perform contract, including first article test requirements, is matter of responsibility and GAO does not review affirmative determinations of responsibility except under circumstances not applicable here.

Ingersoll-Rand protests the award of a contract by the Defense Logistics Agency to Old Hickory Engineering and Machine Company to supply certain air compressor valves previously furnished by Ingersoll. These valves were initially developed by Ingersoll for use on air compressors of its own manufacture. Ingersoll states that under a contract with the Naval Weapons Support Center, Crane, Indiana, (Crane) Old Hickory had supplied drawings of the Ingersoll valve. These drawings, Ingersoll states, were then supplied to DLA for the purpose of procurement with the proviso that sample valves be provided to Crane for first article testing in Ingersoll compressors which were, at that time, available for that purpose.

The situation has now changed, according to Ingersoll, because the compressors on which the valves would be tested no longer are available at Crane. In addition, the Navy has "canceled" the drawings which were developed under the prior Old Hickory-Crane contract. Ingersoll maintains that the valves are a critical component of the compressor, which develops a discharge pressure of 3,000 pounds per square inch, and must operate satisfactorily or the compressor may fail, which could result in personal injury or property damage. Ingersoll argues that any company other than itself cannot satisfactorily manufacture the valves and

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that Old Hickory will be unable to meet the first article test requirements. The basis for the latter argument, as we understand Ingersoll's protest, is that in Ingersoll's view the only way to test the valves according to design specifications is in the actual machinery, and that machinery is no longer available at Crane nor, apparently, at Old Hickory.

Ingersoll's assertion that Old Hickory cannot satisfactorily perform the contract, including the first article test requirements, concerns a matter of responsibility. Thus Ingersoll's allegation constitutes a protest against the agency's affirmative determination of Old Hickory's responsibility which is necessarily involved in the decision to award the contract to Old Hickory. American Mutual Protective Bureau, B-194953, June 21, 1979, 79-1 CPD 447. We do not review affirmative determinations of responsibility unless either fraud on the part of the procuring officials is alleged or the solicitation contains definitive responsibility criteria which have allegedly not been applied. Bogue Electric Manufacturing Company, B-194222, June 18, 1979, 79-1 CPD 431; Worthington Pump, Inc., B-192385, October 11, 1978, 78-2 CPD 267. Neither exception is applicable here.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel